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C O N F I D E N T I A L SECTION 01 OF 02 KUALA LUMPUR 000521

SIPDIS

FOR EAP/MTS AND G/TIP

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TAGS: [PREL](#) [PHUM](#) [ELAB](#) [KTIP](#) [MY](#)
SUBJECT: DCM PRESENTS TIP ACTION PLAN TO HOME MINISTRY

REF: A. STATE 66260 - ACTION PLAN
[1](#)B. KL 491 - REACTION TO TIP REPORT

Classified By: Political Counselor Mark D. Clark for reasons 1.4 b and d.

Summary and Comment

[1](#)1. (C) The DCM presented the trafficking in persons (TIP) action plan for Malaysia in a June 29 meeting initiated by the Home Ministry, which had sought an understanding of the steps Malaysia needs to take to upgrade itself from the current Tier 3 ranking in the U.S. TIP report. Deputy Home Minister Abu Seman and Senior Deputy Secretary General Raja Azahar noted that Malaysia wanted to work constructively with the U.S. on TIP and would welcome U.S. technical assistance, and the DCM emphasized our desire for partnership. The DCM carefully explained the distinction between human trafficking and human smuggling, a distinction that has been blurred during a recent increase in anti-smuggling operations. The DCM emphasized the importance of taking law enforcement action against labor traffickers. In implementing the TIP law, Azahar explained that the GOM had at first concentrated on combating sex trafficking, rather than labor trafficking. However, for gross labor trafficking violations Malaysia now would begin to use the TIP act instead of conventional laws related to labor contract violations. DCM also highlighted the need for a full law enforcement investigation of allegations of trafficking of refugees. In sidebar comments, senior police officials said they had undertaken such an investigation and were following leads in the border area with Thailand. The Deputy Minister informed us that Malaysia ratified the UN TIP Protocol in March 2009.

[1](#)2. (C) Comment: The June 29 meeting with senior Home Ministry officials represented a good step after release of the U.S. TIP report. The officials were attentive, took notes, and kept the discussion focused on the issue of combating trafficking. While describing problems of migrant labor trafficking stemming from conditions in source countries and foreign recruiting agencies, the officials also discussed actions the GOM can take within Malaysia's borders based on the TIP law. As for our next steps, a meeting between the Home Minister and the Ambassador could happen soon. In addition to the Home Ministry, which has the national coordinating role for TIP, Post will provide the TIP action plan to the Prime Minister's Office, Foreign Ministry and Women's Ministry. Embassy offices will follow up proactively with their GOM counterparts, including with the police and Attorney General's Office. End Summary and Comment.

Senior Officials Receive DCM, Discuss Constructive Approach

[1](#)3. (SBU) On June 29, DCM and Polcouns met for one hour with

senior officials of the Home Ministry led by Deputy Minister Abu Seman Yusop and Senior Deputy Secretary General Raja Azahar, who is responsible for the Trafficking in Persons Council. Senior officials from the police and Attorney General's Office also attended. The Home Ministry initially had requested the meeting in order to learn more about the reasons for Malaysia's downgrade to Tier 3 in the U.S. TIP report and the steps needed for Malaysia to move out of Tier 3. Ministry officials had described the June 29 meeting as a preliminary step before the Minister meets with the Ambassador. In the Deputy Minister's opening remarks he emphasized Malaysia's desire to work constructively with the U.S. on TIP issues, and noted the Malaysia's progress since the 2007 passage of the TIP law, particularly in combating sex trafficking.

DCM Presents Recommendations, Urges Partnership

14. (SBU) The DCM reviewed the U.S. 2009 TIP report, and Malaysia's ranking at Tier 3 and the rationale. The DCM briefed and presented in writing ref A demarche, including the 75-day action plan and the recommendations for the full year. He welcomed the Malaysian government's constructive approach to the issue, which matched the U.S. desire to work in a spirit of partnership. He acknowledged Malaysia's recent efforts, including arrests and prosecutions of sex traffickers. The DCM carefully explained the difference between human trafficking and human smuggling, in light of some Malaysian media and officials' comments, which do not distinguish between the two concepts. (Note: Australia has stepped engagement on the issue of human smuggling, resulting

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in Malaysia's increased interception of smuggling attempts and arrests, and producing misreporting that these are anti-trafficking efforts. End Note.) The Malaysian officials stated their desire for U.S. technical assistance, with police officials citing previous discussions with Embassy's FBI and ICE officers. The DCM said the Embassy would like to facilitate such training and asked the officials to identify specific areas for targeting U.S. expertise.

Labor Trafficking -- GOM to Start Using TIP Law

15. (C) As a key element in the U.S. recommendations, the DCM stressed the importance of Malaysia taking law enforcement action against labor traffickers, and noted that Malaysia's legal definition of trafficking includes such crimes. He also highlighted Malaysian media reports of labor trafficking. Deputy Secretary General Azahar explained that as a matter of policy the GOM had initially focused implementation of the TIP law on sex trafficking. Labor trafficking was dealt with under the Employment Act as a contract violation. Azahar noted GOM intervention and resolution of some high-profile labor trafficking cases in favor of the victims earlier this year. Azahar stated, however, that "in the future, with similar cases, we will attempt to use the TIP law." He also noted the importance of stopping the problem in source countries, and described Malaysian government efforts to work with Vietnam, Bangladesh, the Philippines and Indonesia to stem to flow of workers who are misled by recruiters in their home countries. Of these countries, he thought the Philippines had the best policies in place to verify employment in the destination country.

Allegations of Trafficking of Refugees

16. (SBU) DCM raised the importance of a full law enforcement investigation into the allegations of trafficking of refugees, referenced Prime Minister Najib's public commitment to carry out such an investigation, and referenced the U.S.

Senate report. Home Ministry officials acknowledged the point, but did not provide a substantive response.

Police Comments

17. (C) In a sidebar conversation with Polcouns, the head of the police Criminal Investigative Division (CID) Mohd Bakri Zinin stated that police had undertaken an investigation into the trafficking of refugees and were following up on leads in the border area with Thailand. Bakri stated that since the full implementation of the TIP law in March 2008, police had generated 53 investigations against sex traffickers; the investigations were at various stages. Police awaited referral of labor trafficking cases from the Human Resources Ministry, which still had the lead in this matter. Bakri said the greatest obstacle to investigation and prosecution of traffickers was the physical presence and cooperation of victims, who want to return to their own countries as soon as possible.

Malaysia Ratifies UN Protocol

18. (SBU) During the meeting, the Deputy Minister informed us that Malaysia on February 26, 2009, signed the UN TIP Protocol, and ratified the Protocol on March 27. (Note: This is the first time the GOM has shared this information with us. The U.S. TIP report states that Malaysia has not ratified the Protocol. End Note.)
KEITH